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FISCAL IMPACT STATEMENT

LS 7523

BILL NUMBER: SB 342

NOTE PREPARED: Jan 9, 2003

BILL AMENDED:

SUBJECT: Adult Oriented Businesses.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill defines "adult oriented establishment" as a sexual encounter center or an adult cabaret that does not hold a license from the Indiana Alcohol and Tobacco Commission. The bill creates the adult oriented establishment license. The bill provides for local control over licensing of adult oriented establishments. The bill prohibits operation of an adult oriented establishment without an adult oriented establishment license. The bill requires an employee of an adult oriented establishment to have an adult oriented establishment permit. The bill provides for fees and penalties. It also imposes other requirements.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Alcohol and Tobacco Commission:* The bill expands the authority of the Alcohol and Tobacco Commission (ATC) over adult-oriented businesses that are not licensed to serve alcoholic beverages under IC 7.1. Under the proposal these facilities are defined as "adult cabarets". The bill places limits on the hours of their operation from noon until midnight, requires the affected businesses to maintain an employee registry, and regulates certain aspects of the business.

The bill would allow the Commission to inspect the public portion of the business at all reasonable times and to make a complete inspection of the business no less than once per month. The bill allows the ATC to adopt rules to administer the proposal.

The bill could require the Alcohol and Tobacco Commission (ATC) to either make changes in the patrol schedules of current excise officers or hire additional officers to address the added responsibilities.

This bill does not contain an appropriation. The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The Alcohol and Tobacco Commission reverted approximately \$1.8 M in FY 2002. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Department of Health: The bill would require adult-oriented establishments to allow the Department of Health to inspect their facilities no less than once per month. Any costs incurred by the Department due to this provision are expected to be covered using existing staff and resources.

Explanation of State Revenues: An authority may enter a state court having proper jurisdiction and seek an injunction against a person or adult-oriented establishment that is not in compliance. Any violation of an injunction constitutes contempt with a fine of \$50. Fines are deposited in the Common School Fund. The impact of this provision is not expected to be significant.

Explanation of Local Expenditures: This proposal classifies adult-oriented establishments as: 1) adult cabarets that do not have permits issued by the ATC ; or 2) as certain adult-oriented membership groups. Under this proposal adult-oriented establishments must be licensed by a local licensing authority designed by the executive of the political subdivision having jurisdiction over the location. A copy of the license is to be distributed to the local law enforcement official. The authority or the local law enforcement official must investigate applications. Not later than 10 days after receiving the results of the investigation, the local authority must notify the applicant that the application is granted, denied, or held for further investigation. If an application for a license is denied, the authority must notify the applicant in writing. If the applicant timely requests a hearing to contest the denial, the local authority must hold a hearing. The applicant may also apply for a permit under certain conditions in order to operate while the investigation continues.

These provisions will increase expenses for the local authority. The specific impact, however, is indeterminable and will depend on the number of adult-oriented establishments.

Explanation of Local Revenues: Each original application and renewal application must be accompanied by a \$250 license fee. In addition to the renewal fee, a late penalty of \$50 per day is assessed applicants who file for renewal less than 30 days before the license expires. If an application for a license is denied, one-half of the fee is returned to the applicant.

Under certain conditions, an applicant may be required to obtain a permit. Applicants for a permit must submit a \$75 fee. A late penalty fee of \$5 may be assessed applicants seeking a permit. If the applicant is denied a permit, one-half of the permit fee must be returned.

An operator who violates an adult-oriented establishment provision must pay a \$1,000 fee per violation per day. An operator who violates the permit provisions must pay a \$150 fee per violation per day.

Fees collected for licenses and license penalty fees are to be distributed as follows: (1) 33.33% goes to the authority having jurisdiction over the establishment; (2) 33.34% goes to the local law enforcement agency having jurisdiction; and (3) 33.33% goes to the State Department of Health.

Fees collected for permits and permit penalty fees are to be distributed as follows: (1) 60% goes to the

authority having jurisdiction over the establishment; and (2) 40% goes to the State Department of Health.

The amount of revenue that will be generated by fees and penalties is indeterminable, but will be based on the number of applicants, the number of adult-oriented establishments, and the number and nature of violations that occur.

State Agencies Affected: Alcohol and Tobacco Commission; State Department of Health.

Local Agencies Affected: Appointed licensing authorities; Local law enforcement authorities.

Information Sources: